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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/049,844	02/19/2002	Paul A Evans	36-1522	6117

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EXAMINER

LASHLEY, LAUREL L

ART UNIT	PAPER NUMBER
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2132

DATE MAILED: 07/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/049,844

Applicant(s)

EVANS ET AL.

Examiner

Laurel Lashley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 9/16/1999 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☒ Certified copies of the priority documents have been received in Application No. 10/049,844.
  - 3) ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

***Priority***

1. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. 99307363, filed on 09/16/1999.
2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

***Information Disclosure Statement***

The listing of references in the Search Report is not considered to be an information disclosure statement (IDS) complying with 37 CFR 1.98. 37 CFR 1.98(a)(2) requires a legible copy of: (1) each foreign patent; (2) each publication or that portion which caused it to be listed; (3) for each cited pending U.S. application, the application specification including claims, and any drawing of the application, or that portion of the application which caused it to be listed including any claims directed to that portion, unless the cited pending U.S. application is stored in the Image File Wrapper (IFW) system; and (4) all other information, or that portion which caused it to be listed. In addition, each IDS must include a list of all patents, publications, applications, or other information submitted for consideration by the Office (see 37 CFR 1.98(a)(1) and (b)), and MPEP § 609 subsection III. A (1) states, "the list ... must be submitted on a separate paper." Therefore, the references cited in the Search Report have not been considered. Applicant is advised that the date of submission of any item of information or any missing element(s) will be the date of submission for purposes of determining

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compliance with the requirements based on the time of filing the IDS, including all "statement" requirements of 37 CFR 1.97(e). See MPEP § 609 subsection III. C (1).

### ***Specification***

3. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

#### **Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or  
REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.)
- (f) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.
  - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

4. The disclosure is objected to because of the following informality: incorrect referencing of a drawing. On page 8 of the specification, line 25 incorrectly refers to STEP 110; because it is believed that Applicant intended to reference STEP 115, it has been treated as such for the remainder of the Office action. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1 - 11, are rejected under 35 U.S.C. 102(b) as being anticipated by US 5,455,865 (hereinafter US '865) as taught by Perlman.

For Claim 1, US '865 teaches:

A method of conveying a data packet over a packet network from a first server to one or more authorized recipient servers (see the Abstract and column 4, lines 54-60), the method comprising the steps of:

- (i) at the first server, storing a list (see column 5, lines 50-51) comprising one or more distinct data elements (see column 5, lines 51-55 where the node ID numbers are the distinct data elements);
- (ii) sending a copy of said list to an authorized recipient server (see column 5, lines 58-59 where it is inherent that if the recipient is "armed with a reliable PKL" then said PKL was sent by source) by secure communication means (see column 5, lines 33-40);

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(iii) selecting an unused data element from said list and including said selected data element in a data packet to be sent (see column 3, lines 5-6 where each message i.e. data packet originates with a sequence number e.g. a data element and column 5, lines 65-67 where if recipient received packet containing ID then it is inherent that it was sent with said data element intact); and

(iv) sending said data packet to said authorized recipient server (see column 7, lines 44-46).

For Claim 2, US '865 teaches:

A method according to Claim 1, including the further steps of:

(v) receiving an acknowledgement message including a sequence number (see column 9, lines 12-15);

(vi) identifying the position within said list of said selected data element (see column 9, lines 43-45 wherein based on the list arrangement of ID numbers it is inherent that identifying position within list is possible) from step (iii);

(vii) comparing said sequence number with said identified position(see column 9, lines 47-50); and

(viii) re-sending said data packet to said authorized recipient server if, at step (vii), said sequence number does not match said identified position (see column 9, lines 34-35).

For Claim 3, US '865 teaches:

A method according to Claim 2, wherein, at step (v), if said acknowledgement message is not received within a predetermined time period (see column 16, lines 6-10)

after sending said data packet at step (iv), said data packet is resent to said authorized recipient server (see column 16, line 13).

For Claim 4, US '865 teaches:

A method of conveying a data packet over a packet network from a first server to one or more authorized recipient servers (see the Abstract and column 4, lines 54-60), the method comprising the steps of:

- (a) at an authorized recipient server, receiving, by secure communication means, a list comprising on or more data elements, and storing said list (see column 5, lines 32-36 and 50-57);
- (b) receiving a data packet including a data element (see column 6, lines 35-36);
- (c) sending a message acknowledging receipt of said data packet if said included data element is contained with said stored list and was not included in an earlier received data packet (see column 8, lines 7-14).

For Claim 5, US '865 teaches:

A method according to Claim 4, wherein, at step (c), said acknowledgement message includes a sequence number indicative of the position of said included data element within said stored list (see column 14, lines 39-40).

For Claim 6, US '865 teaches:

A server, arranged to convey data packets over a packet network, the server having:  
a packet network interface (see the Abstract);

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a store for storing a list comprising one or more distinct data elements (see column 7, line 15 and FIG. 2 where a store is e.g. a memory location);

secure communication means for sending a copy of said stored list to a predetermined destination (see column 3, lines 23-25; column 7, lines 12-14 and 36-38);

selecting means operable to select an unused data element from said stored list and to include said selected data element in a data packet to be sent (see column 7, lines 17-21); and

routing means operable to send said data packet to said predetermined destination via said interface (see column 7, lines 12-14, 25-27 and 44-46).

For Claim 7, US '865 teaches:

A server according to Claim 6, including:

acknowledgement means operable, on receipt of an acknowledgement message including a sequence number, to trigger said routing means to resend said data packet if said sequence number does not correspond with the position within said stored list of said selected data element (see column 15, lines 42-65 wherein the route setup packet is the acknowledgement means operable that resend the packets).

For Claim 8, US '865 teaches:

A server according to Claim 6 including:

timeout means operable to trigger said routing means to re-send said data packet (see column 16, line 56) if a message acknowledging receipt of said data packet is not received within a predetermined time period (see column 16, lines 6-10) after sending of said data packet by said routing means.

For Claim 9, US '865 teaches:

A server according to Claim 7, including:

alerting means to generate an alert message in the event that said data packet is resent (see column 6, lines 28-31 wherein the alerting means is the cost whereby with transmission and retransmission, the bandwidth fluctuates thus creating a distinction between messages transmitted at various times).

For Claim 10, US '865 teaches:

A server, arranged to convey data packets over a packet network, the server having:

a packet network interface (see the Abstract);

secure communication means for receiving a list comprising on or more data elements (see column 3, lines 24-29);

a store for storing said received list (see column 5, lines 35-36 and column 8, lines 52-54 where a store is e.g. a memory block); and

acknowledging means operable, on receipt of a data packet including a data element, via said interface, to send a message acknowledging receipt of said data packet if said included data element is contained within said stored list and if said included data element was not included in an earlier received data packet (see column 6, lines 17-19 and 43-53; column 8, lines 7-14 and 23-28).

For Claim 11, '865 teaches:

A server according to Claim 10, wherein said acknowledging means include inserting means operable to include sequence number in said acknowledgement

message, said sequence number being indicative of the position of said included data element within said stored list (see column 8, line 66 through column 9, lines 2-9 and column 15, lines 45-46).

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

*Guaranteed Reliable Broadcast Network*, US 5,109,384 (hereinafter US '384) as taught by Tseung incorporates the apparatus-like functions described as the Applicant's servers. Additionally US '384 teaches the acknowledgement and alerting mean operables which are incorporated in Applicant's claims.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laurel Lashley whose telephone number is 571-272-0693. The examiner can normally be reached on Monday through Friday from 8 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron, Jr. can be reached on 571-272-3799. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For

more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Laurel Lashley  
Examiner  
Art Unit 2132

LL  
July 22, 2005

  
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